

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: ROQUETTE AMERICA, INC.	DOCKET NO. WRU-02-44-3676
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ORDER GRANTING WAIVER AND APPROVING SETTLEMENT

(Issued December 26, 2002)

On November 4, 2002, Roquette America, Inc. (Roquette), filed with the Utilities Board (Board) a request for waiver of the generating certificate requirements of Iowa Code chapter 476A. The Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a conditional objection to the request on November 20, 2002. On December 12, 2002, Roquette and Consumer Advocate filed a joint settlement and motion for Board approval of the settlement.

Roquette operates a corn wet-milling processing facility in Keokuk, Iowa, and proposes to construct a cogeneration facility in order to supply electricity to its processing facility. The facility will be located on land immediately adjacent to the processing facility that is zoned as heavy industrial. Roquette plans to install a General Electric 6B gas combustion turbine, a waste heat recovery boiler, and a 10 megawatt (MW) steam turbine. The facility will have a total nameplate capacity of not more than 50 MW.

The facility's air emissions are expected to be very low because of state-of-the-art controls. Roquette has received a draft air quality permit for the facility and expects to receive a final permit from the Iowa Department of Natural Resources

(IDNR) this year. Noise levels are not expected to exceed 70 decibels at the project site perimeter.

Roquette currently purchases its electricity from Interstate Power and Light Company (IPL). The decision to build a cogeneration facility is based on economic factors and Roquette's belief that retail competition will not be adopted by Iowa in the near future. Roquette plans to use up to 40 MW of the electricity from the cogeneration facility for its own use and sell the other 10 MW to other utilities, if transmission studies show that the transmission system will not be constrained. If there is a transmission constraint, Roquette will either operate the facility as an island that is not tied to the transmission grid or take action to eliminate the constraints.

Iowa Code § 476A.15 was amended in 2001 to specifically grant the Board the authority to waive any of the requirements of Chapter 476A for any facility if the Board determines the public interest will not be detrimentally affected. Previously, the Board's waiver authority was limited to units of 100 MW or less.

The decision criteria for a generation certificate are found in Iowa Code § 476A.6, which was also amended in 2001. The decision criteria are: 1) whether the facility is consistent with legislative intent, the economic development policy of the state, and will not be detrimental to provision of adequate and reliable electric service, 2) whether the applicant will construct, maintain, and operate the facility pursuant to the provisions of the certificate, and 3) whether the construction, maintenance, and operation of the facility are consistent with reasonable land use and environmental policies.

The first criteria relates to the provision of adequate and reliable service. Roquette's facility is consistent with the legislative intent expressed in Iowa Code § 476.53 to develop generation in Iowa to serve Iowa consumers. The facility also supports economic development policies by creating jobs and improving the energy infrastructure. The facility will not adversely impact the transmission system because if transmission studies show that the facility creates a constraint, Roquette either will not connect the facility to the transmission grid or take appropriate steps to remove the constraint.

The second criterion is of little importance in this case. A certificate, if required, would merely state that Roquette must comply with applicable law. Roquette is subject to statutory requirements regardless of whether an actual certificate is issued. For example, Iowa Code § 476A.2(2) provides that Board approval must be obtained for a significant alteration to a facility. Granting this waiver would not exempt Roquette from this or any other statutory requirement with respect to its future activities. In fact, the drawings submitted by Roquette indicated there could be an expansion of the facility. Roquette acknowledged in its waiver filing that any expansion would be subject to appropriate regulatory approvals.

The final decision criterion relates to environmental factors. Environmental permits are within the purview of the IDNR and the Board has traditionally deferred to IDNR's expertise in these areas and has found this criterion satisfied if IDNR issues the appropriate permits.

The settlement provides that if it is approved in its entirety and without condition, Consumer Advocate has no objection to the Board granting Roquette's

requested waiver. The settlement provides that once the cogeneration facility has attained a reliable operating status and for so long as Roquette operates the facility, Roquette will only purchase energy and capacity from IPL, if any, up to the facility's capacity for Roquette's own operations, on a standby, non-firm, best efforts, market-priced basis or on an interruptible basis under IPL's applicable tariffs. The settlement further provides that Roquette may purchase electric service from IPL on a firm basis if Roquette's growth requires that it purchase power in excess of the capacity of the cogeneration facility or if Roquette provides notice that it intends to shut down the cogeneration facility permanently. The settlement finally provides that Roquette will comply with the terms and conditions of future transmission authorizations and that the agreement will cease if Iowa deregulates the market for retail electric service to industrial customers such as Roquette.

The Board finds that the waiver request adequately addresses the three statutory decision criteria for a generating certificate and will, therefore, waive the requirements of Chapter 476A. The waiver will not detrimentally affect the public interest. The waiver is specifically conditioned on Roquette's representations that the facility will not constrain the transmission system and, if studies show the contrary, Roquette will operate the facility as an island or remove the constraint. In addition, the Board reminds Roquette that it must obtain final environmental permits and comply with any other state and local regulations, such as zoning or land use restrictions.

The Board will also approve the settlement entered into between Roquette and Consumer Advocate. While absent this agreement Roquette would be entitled to

purchase firm service for all of its requirements pursuant to IPL's tariff, Roquette's agreement not to take firm service for the amount of the capacity of the cogeneration facility insures that other IPL customers will not be harmed because IPL will not have to make provisions to provide firm stand-by service for the amount of the cogeneration capacity.

IT IS THEREFORE ORDERED:

1. The request for waiver filed by the Roquette America, Inc., on November 4, 2002, is granted, subject to the discussion contained in this order.
2. The settlement agreement filed by Roquette America, Inc., and the Consumer Advocate Division of the Department of Justice on December 12, 2002, is approved.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Sharon Mayer
Executive Secretary, Assistant to

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 26th day of December, 2002.